

MAINE STATE LEGISLATURE

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STATE OF MAINE

Inter-Departmental Memorandum Date January 12, 1966

To Walter F. Ulmer, Commissioner

Dept. Mental Health and Geriatrics

From Courtland D. Perry, Asst. Atty. Gen'l.

Dept. Same

Subject Augusta State Hospital Patients' Fund

STATE OF MAINE ATTORNEY GENERAL
JAN 18 1966
STATE HOUSE AUGUSTA, MAINE

In recent years, the matter of payment of interest from the Augusta State Hospital patients' cash deposit account, and unclaimed deposits forming a part of such account, to the Treasurer of State for investment and reinvestment, and semi-annual payment of the income from such investments, to the Augusta State Hospital, to be expended by the Superintendent for the benefit of the patients has been discussed at some length. The practice arose from Chapter 38, RESOLVES of 1955, a copy of which is attached.

The hospital not only paid over interest from the patients' cash deposit account and unclaimed deposits existing as of June 30, 1955, but continued forwarding such payments to the Treasurer of State, as I understand it, until such practice was questioned by the State Auditor in 1964. Whenever, asked about the practice of funding interest from the patients' cash deposit account for the benefit of the patients in general, this office has questioned the practice. The question has once again been raised by the office of the Treasurer of State, requesting direction to finally resolve the matter; thus, we are prompted at this time to record our views.

It is the opinion of this office that Chapter 38, RESOLVES of 1955, authorizes the taking of individuals' property without due process of law, and is unconstitutional. The language relating to the interest on the patients' cash deposit account provides no protection for the owner, and the language relating to the unclaimed deposits is inadequate, lacking notice provisions requisite to due process.

The principal of the patients' trust fund as currently held by the Treasurer of State amounts to \$29,056.86, comprised as follows: Interest on patients cash deposit account as of June 30, 1955, \$4,480.85; unclaimed deposits as of June 30, 1955, \$3,730.82; interest accrued on patients' cash deposit account from June 30, 1955 to June 29, 1964, \$20,845.19.

The investments comprising the principal of the patients' trust fund, in our opinion, should be liquidated and the resulting moneys returned to the Augusta State Hospital to be appropriately distributed pro rata, to those individuals from whose personal funds such amount was derived. We realize that most, if not all, of the unclaimed deposits are likely to be undistributed, due to the unknown whereabouts of persons entitled to such deposits. Such funds could be held in a demand account to be ultimately disposed of under an appropriately worded Bill submitted to the 103rd Legislature, relating to unclaimed accounts, and other property at all institutions under the department. We also realize that a task of tremendous proportions faces the business office of the hospital in attempting to allocate the balance pro rata, to the individuals whose funds created it. I would urge that a meeting be set up to discuss the resolution of this problem, and the future handling of patients' funds.

CHAPTER 38

RESOLVE, Authorizing Certain Monies in Possession of the Augusta State Hospital to be Added to the Hospital's Trust Funds.

Certain monies in possession of the Augusta State Hospital, added to the Augusta State Hospital's trust funds, authorized. Resolved: That the Superintendent of the Augusta State Hospital be, and hereby is, authorized to add to its trust funds such part of the cash balance of the patients' cash deposit account as may be represented by interest earned on said deposit plus such parts of the cash deposit account as may be represented by unclaimed deposits as of June 30, 1955; provided, however, that all unclaimed deposits so used must have remained unclaimed for not less than 5 years; and provided further, that the Superintendent of the Hospital shall have made every reasonable attempt to locate the owner of said unclaimed deposits; and provided, further that should said owner be later discovered he would be reimbursed for the amount of his unclaimed deposit from the principal of said established trust fund; and be it further provided that the Superintendent of the Augusta State Hospital be, and hereby is, authorized to expend as he may direct such income as may be derived from such trust fund for the benefit, welfare and entertainment of the patients of said hospital

Effective August 20, 1955

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CHAPTER 62

RESOLVE, Authorizing Expenditure of Certain Moneys in Possession of Bangor State Hospital.

Certain moneys in possession of Bangor State Hospital; expenditure authorized. Resolved: That the superintendent of the Bangor State Hospital be, and hereby is, authorized to expend for the benefit and welfare of the patients of said hospital such part of the cash balance of the patients' cash deposit account as may be represented by interest earnings on said deposit plus such parts of the cash deposit account as may be represented by unclaimed deposits; provided, however, that all unclaimed deposits so used must have remained unclaimed for not less than 5 years; and provided further, that the superintendent of the hospital shall have made every reasonable attempt to locate the owners of said unclaimed deposits; and provided further, that the balance shall at no time be drawn down to less than \$250.

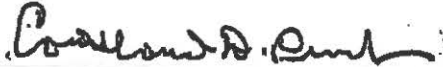
Effective August 20, 1951.

January 12, 1966

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The office of the Treasurer of State has taken the first step in discontinuing the use of a portion of the fund, having on or about December 31, 1965, paid to the Augusta State Hospital, income from the authorized patients' fund, i.e., interest accruals and unclaimed deposits up to June 30, 1955, having withheld semi-annual income derived from interest accruals since June 30, 1955.

Chapter 62 of the RESOLVES of 1951, a copy of which is attached, relating to interest on the patients' cash deposit account and unclaimed deposits at the Bangor State Hospital, is as constitutionally indefensible as Chapter 38 of the RESOLVES of 1955, requiring, in our opinion, corrective action on the part of the Department.



Courtland D. Perry
Assistant Attorney General

cc: K.B. Burns, Director, Business Management
George Lassella, Business Mgr., AGH.
Leo Dunn, Business Mgr., BSH.
Dura Bradford, Deputy Treasurer